

(Pub. L. 101-503, § 8, Nov. 3, 1990, 104 Stat. 1296.)

§ 1774g. Limitation of action

Notwithstanding any other provision of law, any action to contest the constitutionality or validity under law of this subchapter shall be barred unless the action is filed on or before the date which is 180 days after November 3, 1990. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the Western District of New York.

(Pub. L. 101-503, § 9, Nov. 3, 1990, 104 Stat. 1297.)

§ 1774h. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 101-503, § 10, Nov. 3, 1990, 104 Stat. 1297.)

CHAPTER 20—TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE

SUBCHAPTER III—TRIBAL ECONOMIC DEVELOPMENT

Sec.

1851. Grants authorized.
 (a) General authority.
 (b) Amount and duration.
 (c) Applications.
1852. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 13d-2, 2016, 2022b, 2624 of this title; title 20 sections 1401, 2394a, 2471, 2986, 3489; title 29 section 2202.

§ 1801. Definitions

SHORT TITLE OF 1990 AMENDMENT

Section 401 of title IV of Pub. L. 95-471, as added by Pub. L. 101-392, title III, § 312, Sept. 25, 1990, 104 Stat. 804, provided that: "This title [enacting subchapter III of this chapter] may be cited as the 'Tribal Economic Development and Technology Related Education Assistance Act of 1990'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1616f, 1616h, 1808, 3210 of this title; title 20 sections 80q-8, 1085, 2397h.

SUBCHAPTER I—TRIBALLY CONTROLLED COMMUNITY COLLEGES GRANT PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1851 of this title.

§ 1808. Amount of grants

(a) Formula

Except as provided in section 1811 of this title, the Secretary shall, subject to appropriations, grant for each academic year to each tribally controlled community college having an application approved by him an amount equal to the product of—

- (1) the Indian student count at such college during the academic year preceding the aca-

ademic year for which such funds are being made available, as determined by the Secretary in accordance with section 1801(a)(7) of this title; and

- (2) \$5,820,

except that no grant shall exceed the total cost of the education program provided by such college.

- (b) Advance installment payments; adjustments; methods of payment; interest or investment income; types of investments

(1) The Secretary shall make payments, pursuant to grants under this chapter, of not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year.

[See main edition for text of (2) to (4)]

- (c) Accounting by recipient institutions; data collection system

(1) Each institution receiving payments under this subchapter shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may request.

(2) The Secretary shall, in consultation with the National Center for Education Statistics, establish a data collection system for the purpose of obtaining accurate information with respect to the needs and costs of operation and maintenance of tribally controlled community colleges.

(d) Construction of section

Nothing in this section shall be construed as interfering with, or suspending the obligation of the Bureau for, the implementation of all legislative provisions enacted prior to April 28, 1988, specifically including those of Public Law 98-192.

(As amended Pub. L. 101-477, § 1(a), Oct. 30, 1990, 104 Stat. 1152.)

REFERENCES IN TEXT

Public Law 98-192, referred to in subsec. (d), is Pub. L. 98-192, Dec. 1, 1983, 97 Stat. 1335, which enacted sections 1804a and 1831 to 1836 of this title, amended sections 640c-1, 1801 to 1803, and 1805 to 1813 of this title, and enacted provisions set out as a note under section 1815 of this title. For complete classification of Pub. L. 98-192 to the Code, see Tables.

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-477, § 1(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "the Indian student count at such college during such academic year, as determined by the Secretary in accordance with section 1801(a)(7) of this title; and".

Subsec. (b)(1). Pub. L. 101-477, § 1(a)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Secretary shall make payments, pursuant to grants under this subchapter, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Ad-

justments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year."

Subsecs. (c), (d), Pub. L. 101-477, § 1(a)(3), redesignated subsec. (c), relating to construction of section, as (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1805, 1809, 1811 of this title.

§ 1810. Authorization of appropriations

(a)(1) There is authorized to be appropriated, for the purpose of carrying out section 1805 of this title, \$3,200,000 for each of the fiscal years 1990 and 1991, and for fiscal year 1992, such sums as may be necessary.

(2) There is authorized to be appropriated for the purpose of carrying out section 1807 of this title, \$30,000,000 for each of the fiscal years 1990 and 1991, and for fiscal year 1992, such sums as may be necessary.

(3) There are authorized to be appropriated such sums as may be necessary for the purpose of carrying out sections 1812(b) and 1813 of this title for each of the fiscal years 1990, 1991, and 1992.

[See main edition for text of (b)]

(As amended Pub. L. 101-477, § 1(b), Oct. 30, 1990, 104 Stat. 1152.)

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-477, § 1(b)(1), substituted "1990 and 1991, and for fiscal year 1992, such sums as may be necessary" for "1987, 1988, 1989, and 1990".

Subsec. (a)(2). Pub. L. 101-477, § 1(b)(2), substituted "1990 and 1991, and for fiscal year 1992, such sums as may be necessary" for "1987, 1988, 1989, and 1990".

Subsec. (a)(3). Pub. L. 101-477, § 1(b)(3), substituted "1990, 1991, and 1992" for "1987, 1988, 1989, and 1990".

§ 1811. Grant adjustments

(a) Formula for allocation

(1) If the sums appropriated for any fiscal year pursuant to section 1810(a)(2) of this title for grants under section 1807 of this title are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year—

(A) the Secretary shall first allocate to each such applicant which received funds under section 1807 of this title for the preceding fiscal year an amount equal to 95 percent of the payment received by such applicant under section 1808 of this title;

(B) the Secretary shall next allocate to applicants who did not receive funds under such section for the preceding fiscal year an amount equal to 100 per centum of the product of—

(i) the per capita payment for the preceding fiscal year; and

(ii) the applicant's projected Indian student count for the academic year for which payment is being made;

in the order in which such applicants have qualified for assistance in accordance with such section so that no amount shall be allo-

cated to a later qualified applicant until each earlier qualified applicant is allocated an amount equal to such product; and

[See main edition for text of (C), (2); (b) and (c)]

(As amended Pub. L. 101-477, § 1(c), Oct. 30, 1990, 104 Stat. 1152.)

AMENDMENTS

1990—Subsec. (a)(1)(A). Pub. L. 101-477, § 1(c)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the Secretary shall first allocate to each such applicant which received funds under section 1807 of this title for the preceding fiscal year an amount equal to 95 per centum of the product of—

"(i) the per capita payment for the preceding fiscal year; and

"(ii) such applicant's Indian student count for the current fiscal year;"

Subsec. (a)(1)(B)(ii). Pub. L. 101-477, § 1(c)(2), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "the applicant's Indian student count for the current fiscal year;"

§ 1812. Report on facilities

[See main edition for text of (a) and (b)]

(c) Determination and prioritization of construction and renovation needs

(1) The Secretary shall enter into a contract with an organization described in paragraph (2) to establish and provide on an annual basis criteria for the determination and prioritization in a consistent and equitable manner of the facilities construction and renovation needs of colleges that receive funding under this chapter or the Navajo Community College Act [25 U.S.C. 640a et seq.].

(2) An organization described in this section is any organization that—

(A) is eligible to receive a contract under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]; and

(B) has demonstrated expertise in areas and issues dealing with tribally controlled community colleges.

(3) The Secretary shall include the priority list established pursuant to this subsection in the budget submitted annually to the Congress.

(d) "Reconstruction" defined

For the purposes of this section, the term "reconstruction" has the meaning provided in the first sentence of subparagraph (B) of section 1132e-1(2) of title 20.

(As amended Pub. L. 101-392, title III, § 313, Sept. 25, 1990, 104 Stat. 805.)

REFERENCES IN TEXT

The Navajo Community College Act, referred to in subsec. (c)(1), is Pub. L. 92-189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 640a of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(2)(A), is Pub. L.

¹ See References in Text note below.

93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

Section 1132e-1 of title 20, referred to in subsec. (d), was omitted in the general revision of subchapter VII (§ 1132a et seq.) of chapter 28 of Title 20, Education, by Pub. L. 99-498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1520. See section 1132i-1 of Title 20.

AMENDMENTS

1990—Subsecs. (c), (d). Pub. L. 101-392 added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-392 effective July 1, 1991, see section 702(a) of Pub. L. 101-392, set out as a note under section 2301 of Title 20, Education.

SUBCHAPTER II—TRIBALLY CONTROLLED COMMUNITY COLLEGE ENDOWMENT PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1851 of this title.

§ 1832. Establishment of program; program agreements

[See main edition for text of (a)]

(b) No grant for the establishment of an endowment fund by a tribally controlled community college shall be made unless such college enters into an agreement with the Secretary which—

[See main edition for text of (1)]

(2) provides for the deposit in such trust fund of—

(A) any Federal capital contributions made from funds appropriated under section 1836 of this title;

(B) a capital contribution by such college in an amount (or of a value) equal to half of the amount of each Federal capital contribution; and

(C) any earnings of the funds so deposited;

[See main edition for text of (3)]

(4) provides that, if at any time such college withdraws any capital contribution made by that college, an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal shall be withdrawn and returned to the Secretary for reallocation to other colleges;

[See main edition for text of (5) and (6)]

(As amended Pub. L. 101-477, § 1(d)(1)(A), (B), Oct. 30, 1990, 104 Stat. 1152, 1153.)

AMENDMENTS

1990—Subsec. (b)(2)(B). Pub. L. 101-477, § 1(d)(1)(A), substituted “(or of a value) equal to half of” for “equal to”.

Subsec. (b)(4). Pub. L. 101-477, § 1(d)(1)(B), substituted “an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal” for “an equal amount of Federal capital contribution”.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1(d)(2) of Pub. L. 101-477 provided that: “The amendments made by paragraphs (A) through (E) of subsection (a) [probably means subpars. (A) to (E) of subsec. (d)(1), amending this section and sections 1834 and 1835 of this title] shall take effect October 1, 1991.”

§ 1834. Compliance with matching requirement

For the purpose of complying with the contribution requirement of section 1832(b)(2)(B) of this title, a tribally controlled community college may use funds which are available from any private or tribal source. Any real or personal property received by a tribally controlled community college as a donation or gift on or after October 30, 1990, may, to the extent of its fair market value as determined by the Secretary, be used by such college as its contribution pursuant to section 1832(b)(2)(B) of this title, or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college, the proceeds therefrom shall be deposited pursuant to section 1832(b)(2)(B) of this title but shall not again be considered for Federal capital contribution purposes.

(As amended Pub. L. 101-477, § 1(d)(1)(C), Oct. 30, 1990, 104 Stat. 1153.)

AMENDMENTS

1990—Pub. L. 101-477 inserted at end “Any real or personal property received by a tribally controlled community college as a donation or gift on or after October 30, 1990, may, to the extent of its fair market value as determined by the Secretary, be used by such college as its contribution pursuant to section 1832(b)(2)(B) of this title, or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college, the proceeds therefrom shall be deposited pursuant to section 1832(b)(2)(B) of this title but shall not again be considered for Federal capital contribution purposes.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-477 effective Oct. 1, 1991, see section 1(d)(2) of Pub. L. 101-477, set out as a note under section 1832 of this title.

§ 1835. Allocation of funds

(a) From the amount appropriated pursuant to section 1836 of this title, the Secretary shall allocate to each tribally controlled community college which is eligible for an endowment grant under this subchapter an amount for a Federal capital contribution equal to twice the value of the property or the amount which such college demonstrates has been placed within the control of, or irrevocably committed to the use of, the college and is available for deposit as a capital contribution of that college in accordance with section 1832(b)(2)(B) of this title, except that the maximum amount which may be so allocated to any such college for any fiscal year shall not exceed \$750,000.

(b) If for any fiscal year the amount appropriated pursuant to section 1836 of this title is not sufficient to allocate to each tribally controlled community college an amount equal to

twice the value of the property or the amount demonstrated by such college pursuant to subsection (a) of this section, then the amount of the allocation to each such college shall be ratably reduced.

(As amended Pub. L. 101-477, § 1(d)(1)(D), (E), Oct. 30, 1990, 104 Stat. 1153.)

AMENDMENTS

1990—Pub. L. 101-477 inserted "twice the value of the property or" after "equal to" in subsecs. (a) and (b) and substituted "\$750,000" for "\$350,000" in subsec. (a).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-477 effective Oct. 1, 1991, see section 1(d)(2) of Pub. L. 101-477, set out as a note under section 1832 of this title.

§ 1836. Authorization of appropriations

(a) There is authorized to be appropriated to carry out the provisions of this subchapter \$5,000,000 for each of the fiscal years 1987, 1988, 1989, 1990 and 1991, and for fiscal year 1992, \$10,000,000.

[See main edition for text of (b)]

(As amended Pub. L. 101-477, § 1(d)(1)(F), Oct. 30, 1990, 104 Stat. 1153.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-477 substituted "1990 and 1991, and for fiscal year 1992, \$10,000,000" for "and 1990".

SUBCHAPTER III—TRIBAL ECONOMIC DEVELOPMENT

§ 1851. Grants authorized

(a) General authority

The Secretary is authorized, subject to the availability of appropriations, to make grants to tribally controlled community colleges which receive grants under either this chapter or the Navajo Community College Act [25 U.S.C. 640a et seq.] for the establishment and support of tribal economic development and education institutes. Each program conducted with assistance under a grant under this subsection shall include at least the following activities:

(1) Determination of the economic development needs and potential of the Indian tribes involved in the program, including agricultural and natural resources needs.

(2) Development of consistent courses of instruction to prepare postsecondary students, tribal officials and others to meet the needs defined under paragraph (1). The development of such courses may be coordinated with secondary institutions to the extent practicable.

(3) The conduct of vocational courses, including administrative expenses and student support services.

(4) Technical assistance and training to Federal, tribal and community officials and business managers and planners deemed necessary by the institution to enable full implementation of, and benefits to be derived from, the program developed under paragraph (1).

(5) Clearinghouse activities encouraging the coordination of, and providing a point for the

coordination of, all vocational activities (and academically related training) serving all students of the Indian tribe involved in the grant.

(6) The evaluation of such grants and their effect on the needs developed under paragraph (1) and tribal economic self-sufficiency.

(b) Amount and duration

The grants shall be of such amount and duration as to afford the greatest opportunity for success and the generation of relevant data.

(c) Applications

Institutions which receive funds under other subchapters of this chapter or the Navajo Community College Act [25 U.S.C. 640a et seq.] may apply for grants under this subchapter either individually or as consortia. Each applicant shall act in cooperation with an Indian tribe or tribes in developing and implementing a grant under this subchapter.¹

(Pub. L. 95-471, title IV, § 402, as added Pub. L. 101-392, title III, § 312, Sept. 25, 1990, 104 Stat. 804.)

REFERENCES IN TEXT

The Navajo Community College Act, referred to in subsecs. (a) and (c), is Pub. L. 92-189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 640a of this title and Tables.

This subchapter, referred to at the end of subsec. (c), was in the original "this part" and was translated as reading "this title" to reflect the probable intent of Congress because title IV of Pub. L. 95-471, which comprises this subchapter, does not contain parts.

EFFECTIVE DATE

Subchapter effective July 1, 1991, see section 702(a) of Pub. L. 101-392, set out as an Effective Date of 1990 Amendment note under section 2301 of Title 20, Education.

SHORT TITLE

For short title of title IV of Pub. L. 95-471, which enacted this subchapter, as the "Tribal Economic Development and Technology Related Education Assistance Act of 1990", see section 401 of Pub. L. 95-471, set out as a Short Title of 1990 Amendment note under section 1801 of this title.

§ 1852. Authorization of appropriations

There are authorized to be appropriated for grants under this subchapter¹ \$2,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(Pub. L. 95-471, title IV, § 403, as added Pub. L. 101-392, title III, § 312, Sept. 25, 1990, 104 Stat. 805.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this part" and was translated as reading "this title" to reflect the probable intent of Congress because title IV of Pub. L. 95-471, which comprises this subchapter, does not contain parts.

¹ See References in Text note below.